

**APPROVED MINUTES
REGULAR MEETING OF THE SEA BRIGHT PLANNING/ZONING BOARD
TUESDAY, March 10, 2020**

ADMINISTRATIVE MATTERS

Call to Order

Vice Chairman DeSio called the meeting to order at 7:31 p.m. and requested those present join him in the Pledge of Allegiance.

Chairman's Opening Statement

Vice Chairman DeSio read the following Compliance Statement:

The Borough of Sea Bright, in compliance with the Open Public Meetings Act, has provided the time, date, and location of this meeting to at least two designated newspapers, published same in the Asbury Park Press, the official newspaper, filed notice with the Borough Clerk, and posted notice on the Borough website and in the Borough Office.

Attendance Roll Call

Present: Cashmore, DeGiulio, DeSio, Leckstein, McGinley, Smith, Bills, Wray, Gorman

Not Present: Cunningham, Kelly, Nott

Also in attendance: Board Attorney Kerry E. Higgins, Esq.

Board Engineer David J. Hoder

Board Secretary Candace B. Mitchell

Approval of 2/25/20 Minutes

Boardmember Smith offered a motion to approve the minutes, with a second offered by Boardmember DeGiulio, and adoption on the following roll call vote of eligible members:

Roll Call:

Ayes: Cashmore, DeGiulio, DeSio, Smith, Bills, Wray, Gorman

Nays: none

Abstain: Leckstein, McGinley

Absent: Cunningham, Kelly, Nott

ITEMS OF BUSINESS

Memorialization of Resolution

**RESOLUTION OF THE SEA BRIGHT PLANNING/ZONING BOARD
GRANTING EXPANSION OF NON-CONFORMING USE AND BULK VARIANCE APPROVAL**

RE: Michael & Glynnis Burke

26 Waterview Way

Block 32 Lot 4

Sea Bright, New Jersey

WHEREAS, Michael & Glynnis Burke (the "Applicant") made application to the Planning/Zoning Board of Sea Bright (the "Board") for property known as Block 32, Lot 4 on the

Tax Map of the Borough of Sea Bright, also known as 26 Waterview Way for expansion of the non-conforming structure and non-conforming use with bulk variances; and

WHEREAS, Applicant proposes to add additions on the front and rear and add a half story; and

WHEREAS, the existing structure is a two-family home in the R-2 Zone which does not permit same; and

WHEREAS, Applicant seeks bulk variances for front yard setback where 25' is required and 4.8' is existing and proposed; side yard setback where 7' is required and 1' is existing and proposed and will be extended by the additions; accessory rear yard setback where 5' is required and .4' is existing and will not be changed; accessory side yard setback where 5' is required and 4.9' is existing and will not be changed; and

WHEREAS, Applicant has provided due notice to the public and all surrounding property owners as required by law, has caused notice to be published in the official newspaper in accordance with N.J.S.A. 40:55D-1 et seq. and, therefore, this Board has accepted jurisdiction of the application and has conducted public hearing on the matter at a meeting on February 25, 2020, at which time all persons having an interest in said application were given an opportunity to be heard; and

WHEREAS, the Applicant appeared and marked into evidence certain documents including the following:

- A-1:** Jurisdictional Packet
- A-2:** Packet of 8 photos of subject property
- A-3:** Architectural plans by Anthony Condouris dated 1-28-19
- A-4:** Aerial view of neighborhood with marking of other 2+ family homes
- A-5:** Revised cover sheet of square footage table
- A-6:** 3D rendering
- B-1:** Report by David Hoder, P.E., P.E., C.M.E. dated 2-24-20

WHEREAS, the Board considered the testimony and evidence presented and the Board makes the following findings of fact and conclusions of law:

1. The property is in the R-2 zone which does not permit two-family residential homes. The property has been used as a two-family home for many years.
2. There is an accessory structure on the property which is used as a cabana. No changes are proposed to this structure and the Applicant **STIPULATED** that same is not habitable and will not be habitable and **will not be used for residential purposes**.
3. The existing non-conformities will be extended by extending the home up and to the front and rear.
4. The architect Anthony Condouris introduced an aerial photo depicting the other two-family homes in the area. He described the proposed additions which will add a new 2nd

floor and a half story. The proposed addition will add 68 s.f. to the 1st floor, 220 s.f. to the 2nd floor and a 388 s.f. finished half-story which will contain a bedroom.

5. The Applicant **STIPULATED** that all mechanicals would be above the BFE. The first-floor addition is unfinished space leaving all habitable space compliant with the BFE.

6. The Applicant Michael Burke testified that the home has been used as more of a vacation home by his sister and him for many years. They are both retired and desire to reside here full-time and the expansion is needed to make the home more livable and safer.

7. The Applicant **STIPULATED** that they will comply with the requirements set forth in Section C of the Board Engineer David Hoder's letter dated February 24, 2020.

8. Neighbor Patrick Quinn testified in favor of the application.

9. Board Member Smith noted that the Applicant and their professional had taken careful involvement in designing the additions and identifying issues. He noted that the proposed additions would public health and safety.

10. The Board found that the design of the home promoted a desirable visual environment through creative design.

11. The Board noted that there will be no impact on the neighbors as the variances are pre-existing and are being extended by adding the additional floor as well as extending to the rear. The non-conformities are not being increased in size, but are maintaining the same lines and extending same.

12. The Board found that the additions will complement the house and be aesthetically pleasing.

13. The Board found that although it is an expansion of a pre-existing non-conforming use, the intensity of the front and side setback non-conformities of the main home remain the same. The accessory structure is not being expanded.

8. The Board found that the requested bulk variances were not excessive and improved the safety, aesthetics, enjoyment and layout of the home.

9. The Board found that the proposal will not have a negative impact on the neighborhood or on the zone plan.

10. The Board found that the bulk variances are consistent with the neighborhood and the pre-existing dwelling. The proposed design and layout will make for a better and more aesthetically pleasing home.

11. The Board found that the proposed design promoted a desirable visual environment through creative development techniques, design and arrangement. The Board felt that the design fit the lot with its constrictions and was the best design for this property.

12. The Board found that the variances could be granted without any negative impact on the neighborhood and was not inconsistent with the zoning ordinance or zone plan.

13. After evaluating all of the evidence and testimony the Board found that the applicant has met the enhanced burden of proof as to the positive and negative criteria.

14. The "D" variance relief sought can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the Master Plan, Zone Plan and Zoning Ordinance for the reasons set forth above.

15. The Board found that the granting of the variances will have no substantial detrimental impact on surrounding properties nor will it substantially impair the intent and purpose of the zone plan and zoning ordinance.

NOW, THEREFORE, BE IT RESOLVED by the Planning/Zoning Board of the Borough of Sea Bright that the Application for use variance for a second story deck with the bulk variances as set forth above is approved in accordance with the plans submitted and marked into evidence, subject to the following conditions:

GENERAL CONDITIONS

1. The applicant shall submit proof of payment of all real estate taxes applicable to the property and payment of all outstanding and future fees and escrow charges, posting of all performance guarantees, if any, in connection with the review of this application prior to and subsequent to the approval of this application.

2. The applicant must obtain the approval of all necessary and appropriate governmental agencies and compliance with all governmental regulations, including but not limited to CAFRA, except those specifically waived or modified in this Resolution.

3. The applicant shall comply with all building, FEMA and fire codes including but not limited to, entrances and exits.

4. The accuracy and completeness of the submission statements, exhibits and other testimony filed with or offered to the Board in connection with this application, all of which are incorporated herein by reference and specifically relied by the Board in granting this approval. This condition shall be a continuing condition, which shall be deemed satisfied unless and until the Board determines (on Notice to the applicant) that a breach thereof.

5. All stipulations agreed to on the record, by the applicant.

6. In the event that any documents require execution in connection with the within approval, such documents shall not be released until all of the conditions of the approval have been satisfied unless otherwise expressly noted.

7. The Applicant shall pay to the municipality any and all sums outstanding for fees incurred by the municipality for services rendered by the municipality's professionals for review

of the application for development, review and preparation of documents, inspections of improvements and other purposes authorized by the MLUL.

8. The Applicant shall furnish such Performance Guarantees and/or Maintenance Guarantee as may be required pursuant to the MLUL and the Sea Bright Ordinances.

9. No site work shall be commenced or plans signed or released or any work performed with respect to this approval until such time as all conditions of the approval have been satisfied or otherwise waived by the Board.

10. No mechanicals will be located beyond the building wall into the setbacks and will be above the BFE.

11. The Applicant will meet all building codes, including the number of windows permitted.

12. The Applicant/Developer shall comply with the Sea Bright Affordable Housing Regulations, Section 130-118 et seq. as amended and supplemented by paying a fee of one and a half percent (1.5%) of the equalized assessed value for all new residential development. This fee shall be payable by Applicant, its successors or assigns. Collection of the fee shall be as set forth in Section 130-123.

SPECIFIC CONDITIONS

1. The existing accessory structure shall not be used for residential purposes and shall be non-habitable.
2. The Applicant will comply with the requirements set forth in Section C of the Board Engineer David Hoder's letter dated February 24, 2020.

BE IT FURTHER RESOLVED that this Resolution memorializes the action taken by the Planning/Zoning Board at its meeting of February 25, 2020; and

BE IT FURTHER RESOLVED that the Chairman and Board Secretary are hereby authorized to sign any and all documents necessary to effectuate the purpose of this Resolution; and

BE IT FURTHER RESOLVED that the Board Secretary is hereby authorized and directed to cause a certified copy of this Resolution to be sent to the Applicant, the Borough Clerk, the engineer and the zoning officer and to make same available to all other interested parties and to cause notice of this Resolution to be published in the official newspaper at the Applicant's expense.

I certify the foregoing to be a true copy of a Resolution by the Sea Bright Planning/Zoning Board memorialized on March 10, 2020.

Candace B. Mitchell
Candace B. Mitchell, Secretary
Sea Bright Planning/Zoning Board

Adopted on a roll call on a motion by Boardmember Stephen Cashmore
And Seconded by Boardmember Karolyn Wray

Vote:

Cashmore - Aye	Cunningham - Absent	DeGiulio - Aye	DeSio - Aye
Kelly - Absent	Leckstein - Recused	McGinley - Abstain	Nott - Absent
Smith - Aye	Bills (Alt.#1) - Aye	Wray (Alt.#2) - Aye	Gorman (Alt.#3) - Aye

David DeSio

David DeSio, Vice Chairman

New Application

PBZB No. 2020-04

Donald and Patricia Pignataro

414 Ocean Avenue, Bl. 30, L. 25

Construction of a previously approved single-family residence with the residence in a new location
Bulk variances are requested for rear yard, side yard, and combined yard setbacks

In attendance for the application:

John Freeman, PE, CME, CPWM of Najarian Associates

Jennifer White, PE of Najarian Associates

Matthew T. Cronin, AIA, Architect

Donald and Patricia Pignataro, homeowners

Board Attorney Kerry Higgins stated that she had reviewed the jurisdictional packet, found it to be in order, and determined the Board can take jurisdiction over this matter.

The following exhibits were entered into evidence:

- A-1** Jurisdictional Packet, received 3/2/20
- A-2** Property Survey with Topography, prepared by Harry J. Widdis, P.L.S,
N.J. LIC. NO. 26384, dated 6/1/19, 1 (one) sheet
- A-3** Plot Plan, prepared by Robert W. Bucco, Jr., N.J.P.E. NO. 38132, dated 8/20/19,
1 (one) sheet
- A-4** Foundation Location, prepared by John J. Dziemian, N.J. P.L.S. NO. GS37582,
dated 1/24/20, 1 (one) sheet
- A-5** Proposed Reconstruction Plan prepared by Matthew T. Cronin, AIA,
NJ LICENSE No. AI 12367, dated 8/4/19, rev. 9/10/19, rev. 9/19/19, rev. 11/13/19,
rev. 2/18/20, 6 (six) sheets
- A-6** Photos of premises as they exist, 9 pages

Mr. Pignataro opened the hearing by explaining that he had previously received bulk variance approval for a single family residence compliant with V-Zone standards. When he submitted the Foundation Location Survey to the Building Department, it was discovered that the foundation was not in the approved location. An error had been made by the engineering firm in staking out the foundation location. As a result, the rear and side setbacks have changed from the original approvals. After considering the time it would require to take down what has been built and start from scratch, the applicant decided to seek variance approval necessary for the new foundation location.

Donald Pignataro and Patricia Pignataro were sworn in to testify.

Attorney Higgins asked for an explanation of what the differences are regarding the previous and present application.

John Freeman of Najarian associates responded. Mr. Freeman was sworn in to testify, listed his credentials, and was accepted by the Board as an expert witness.

Vice Chairman DeSio and Councilman Leckstein each asked whether the house is the same as previously approved. Mr. Pignataro responded that it is exactly the same house.

Mr. Freeman continued. The rear setback required is 20'. The setback requested now is 15.6' to the deck and 11'6' to the stairs. Attorney Higgins confirmed that, previously, the applicant asked for a 20' setback to the deck and 16' to the stairs.

Regarding the combined side yard setback, where 25' is required, 21.1' was proposed and approved in first application, and now, 21.6' is requested.

Mr. Hoder confirmed the setbacks, and pointed out that the rear setback is, actually, 15.5'.

On the south side yard setback, 10' is required. Variance approval was not needed in the first application. Variance relief for an 8.8' setback is now requested.

Mr. DeSio stated how important it is to get the numbers correct.

Ms. Higgins stated that this application is truly an amended site plan application.

No member of the Board nor the public wished to offer comments or questions.

Determination

Councilman Leckstein offered a motion to approve the variance relief sought, with a second offered by Boardmember Smith, and the motion adopted on the following roll call vote:

Roll Call:

Ayes: Cashmore, DeGiulio, DeSio, Leckstein, McGinley, Smith, Bills, Wray, Gorman

Nays: none

Absent: Cunningham, Kelly, Nott

New Application

PBZB No. 2020-03

LHP Holdings, LLC

13-15 E. Church Street, Bl. 22, L. 4.01 and 4.02

Applicant is seeking approvals for a "D" Use variance to permit residential use in a commercial zone and for expansion of a pre-existing non-conforming use as well as bulk variances for Front Yard and Rear Yard Setbacks & Lot Depth to renovate the existing first floor and expand the existing second floor for use as a single family house.

Councilman Leckstein recused himself from this hearing. As a Member of Council, he may not participate in applications requesting D (use) variance approval.

In attendance for the application:

Mark K. Fallender, Attorney

Robert F. Krause, Architect

Richard Perrin, Managing Member LHP Holdings, LLC

Karen Perrin

Board Attorney Kerry Higgins stated that she had reviewed the jurisdictional packet, found it to be in order, and determined the Board can take jurisdiction over this matter.

The following exhibits were entered into evidence:

A-1 Jurisdictional Packet, received 3/6/20

A-2 Prior resolution granting site plan, bulk variance, and use variance approval for this property, which was memorialized 6/11/19

A-3 Site Plan prepared by Robert F. Krause, Architect, NJ CERT NO 08797, dated 2/14/20, 6 (six) sheets

B-1 Technical Review, prepared by Planning Board Engineer David J. Hoder, rev. dated 3/6/20, consisting of two (2) pages

Attorney Mark Fallender introduced the application, stating that the applicant plans to renovate and expand the current structure. The property has frontage 63.1', a depth of 49.08', a total area of 3,209 sq.', and is located in the B-1 zone. The structure was previously the subject of improvement before this Board.

The first floor will stand in the same footprint as it does currently, and the second floor will be expanded. The building's height does not require a variance, but the depth of the lot does, and, also the front yard and side yard setbacks.

Robert Krause was sworn in to testify, listed his credentials, and was accepted by the Board as an expert witness.

The present owner lives next door to this property. The owner is looking to lift the first floor. Mr. Krause described the request for a use variance in the B-1 zone, where residential use is permitted only above commercial use on the first floor. Previous applications had been approved for residential use. The application seeks residential use on both the first and second floors.

Attorney Higgins asked whether there are other first floor residential uses in the neighborhood. Mr. Krause answered there is first floor residential use in the neighborhood, it seems appropriate for that street, and it is an enhancement.

Vice Chairman DeSio asked Mr. Krause to describe the plan, including parking. Mr. Krause answered the property is two lots which have merged. Mr. DeSio pointed out that the plan does not specify parking, just a gravel space. Mr. Krause explained the extra lot will be used for parking, and there is already a curb cut off of East Church Street. There is enough space for two cars. Asked whether the owner intends to build a second structure on the extra lot, Mr. Krause stated that the owner does not intend to build a second structure.

Board Engineer Hoder described the property setbacks and said the plan has no ability to make the lot depth requirement. Mr. Krause described the setbacks, and Mr. Hoder offered clarification.

Ms. Higgins asked, when a business is used as a residence, do you use the residential zone standards or the business zone standards.

Mr. Hoder listed points of his review, including: all mechanicals should be 3' above flood level, sidewalks will be installed if existing sidewalks are damaged during construction, and a note should be placed on the plans, the 25' seawall easement should be shown on the plans, and the outside approvals that are required.

Board Questions

Boardmember Gorman asked for a description of the second floor. Mr. Krause answered the second floor is currently just an attic. It was an A-frame, and a stairway was placed upstairs that overlooks the sea wall.

Boardmember DeGiulio asked what will the outside look like. Mr. Krause answered that it will generally look like the house next door to it, a little more modest in size, but using similar materials.

Public Comments

Janet Hentschel, 7 East Church Street, was sworn in to testify and spoke in favor of the application.

Owners Richard Perrin and Karen Perrin were sworn in to testify.

Richard Perrin, 3 East Church Street, stated that he and his wife own the house across the street, are very happy to be in the community. They take great pride in their house, and that's what they would like to do across the street. They will make the subject property into a nice, clean property that everybody will like to look at, making the community better for all.

The public portion was closed.

Mr. Fallender asked for approval to use the first floor before the renovation is complete.

Ms. Higgins stated that the Board is couching that variance based on the other things the applicant is doing, and she couldn't answer that question.

Dave Hoder suggested the plan could be submitted to him, and, as soon as it's signed it could be submitted to the Building Department for permits.

Mr. Fallender clarified that he is asking whether the owners may use the first floor of the house this coming summer before the renovation takes place. Could they get a condition of approval to use the first floor for the summer?

Ms. Higgins summarized the request by the applicants, who have asked whether they can occupy the first floor this summer, before the renovation has been completed. Ms. Higgins specified that use will be a condition of approval and must meet all code enforcement requirements. A time limit will be placed on using the first floor before the renovations are completed, perhaps the end of September, at which time, the renovations to the structure must proceed.

Mr. Fallender explained that, for this summer's use a kitchen, a full bathroom, family room, and bedroom space will be added and will be a conditional use.

Vice Chairman DeSio stated that he has no problem with this request. It is the same use that is being approved. Ms. Higgins added that the use variance has to be approved for this conditional use.

Public Comments

Janet Hentschel, 7 East Church Street, asked for clarification regarding the parking.

The public portion was closed.

Ms. DeGiulio asked for clarification regarding the conditional use, and Ms. Higgins described what has to be done to comply with conditional use approval.

Mr. Hoder asked for clarification regarding the driveway and access. There will be no parking on the parking lot side.

Ms. Higgins summarized the application, the requirements of Mr. Hoder's review, and requirements for conditional use approval.

Mr. DeSio pointed out that, also, the front yard setbacks need to be changed.

Ms. DeGiulio asked for clarification that a Certificate of Occupancy would be required to use the structure this summer. Ms. Higgins stated that a temporary C. of O. would need to be obtained.

Determination

Boardmember Smith offered a motion to approve the application for use and bulk variance, with conditions. The front yard setbacks need to be changed, the mechanicals must be located above three feet, referring to Dave Hoder's report. There are no objections to the

conditional use, provided all code requirements are met. Parking should be utilized as it is shown on the plan. He added that this section of the neighborhood is almost entirely residential now, referring to the request for a use variance.

A second was offered by Boardmember Cashmore, and the application was approved on the following roll call vote:

Roll Call:

Ayes: Cashmore, DeGiulio, DeSio, McGinley, Smith, Bills, Wray, Gorman

Nays: none

Absent: Cunningham, Kelly, Leckstein, Nott

General Public Comments

There were no members of the public wishing to speak.

CLOSING MATTERS

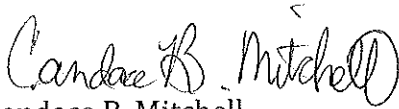
Meeting Announcement

There being no other business before the Board, the Vice Chairman made an announcement of the next meeting date, which is March 24, 2020.

Adjournment

The meeting was adjourned at 8:30 p.m. on a motion offered by Mr. Smith, seconded by Ms. DeGiulio, and approved upon a unanimous voice vote by the Board members.

Respectfully submitted,



Candace B. Mitchell
Board Secretary